

2432.201

Subpart 2432.2—Commercial Item Purchase Financing

2432.201 Statutory authority.

The head of the contracting activity is the agency head for the purpose of FAR 32.201.

[65 FR 3573, Jan. 21, 2000]

Subpart 2432.4—Advance Payments for Non-Commercial Items

2432.402 General.

(e)(1) The determination and findings required by FAR 32.402(c)(1)(iii) shall be made by the HCA.

(2) Each advance payment situation shall be coordinated with the head of the cognizant accounting office, before authorization may be given, to ensure that there are controls in place to assure proper administration of advance payments.

[60 FR 46157, Sept. 5, 1995, as amended at 64 FR 46097, Aug. 23, 1999]

2432.407 Interest.

(d) The Senior Procurement Executive is the agency head's designee for the purposes of FAR 32.407(d).

[65 FR 3573, Jan. 21, 2000]

Subpart 2432.7—Contract Funding

2432.703-3 Contracts crossing fiscal years.

(b) The contracting officer may enter into a contract, exercise an option, or place an order under a contract for severable services for a period that begins in one fiscal year and ends in the next fiscal year if the period of the contract awarded, option exercised, or order placed does not exceed one year.

[65 FR 3573, Jan. 21, 2000]

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Subpart 2432.9—Prompt Payment

2432.903 Policy.

The Senior Procurement Executive is the agency head's designee for the purposes of FAR 32.903(b).

[65 FR 3573, Jan. 21, 2000]

2432.906 Contract financing payments.

(a) Except for construction contracts (see FAR 52.232-27), periods for payment shorter than 30 days shall not be specified in contracts without the prior approval of the cognizant accounting office to ensure that procedures are in place to allow timely payment.

[60 FR 46157, Sept. 5, 1995, as amended at 64 FR 46097, Aug. 23, 1999]

2432.908 Contract clauses.

(c)(1) The Contracting Officer shall insert a clause substantially the same as provided at 48 CFR 2452.232-70, Payment Schedule and Invoice Submission (Fixed-Price), in all fixed-price solicitations and contracts except those for commercial services awarded pursuant to FAR part 12.

(2) The Contracting Officer shall insert a clause substantially the same as provided at 48 CFR 2452.232-71, Voucher Submission (Cost-Reimbursement), in all cost-reimbursement solicitations and contracts when vouchers are to be sent directly to the paying office.

[64 FR 46097, Aug. 23, 1999]

PART 2433—PROTESTS, DISPUTES, AND APPEALS

Sec.

2433.000 Scope of part.

Subpart 2433.1—Protests

2433.102 General.

2433.102-70 Responsibility.

2433.103 Protests to the agency.

2433.104 Protests to GAO.

2433.106 Solicitation provision.

AUTHORITY: 31 U.S.C. 3551-3556; 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

SOURCE: 50 FR 46578, Nov. 8, 1985, unless otherwise noted.

2433.000 Scope of part.

This part identifies the responsible agents and sets forth procedural requirements for handling protests.

[51 FR 40333, Nov. 6, 1986]

Subpart 2433.1—Protests**2433.102 General.****2433.102-70 Responsibility.**

With the exception of protests filed directly with the Department pursuant to FAR 33.103, the Office of General Counsel has responsibility for handling matters relating to protests against award of contracts by the Department. All written communications from the Department to the GAO or other adjudicating body shall be made by the Office of General Counsel. The Contracting Officer has responsibility for furnishing the Office of General Counsel with all information relating to a protest.

[64 FR 46097, Aug. 23, 1999]

2433.103 Protests to the agency.

(d)(2) Appeals of Contracting Officer protest decisions shall include the information required at FAR 33.103(d)(2)(i), (ii), (iii), (iv), (v) and (vi).

(d)(4)(i) Protesters may request an appeal of the Contracting Officer's decision on a protest. Such requests shall be made in writing to the cognizant HCA not later than 10 days after receipt of the Contracting Officer's decision.

(ii) The HCA, in consultation with the Office of General Counsel, shall make all independent reviews of the Contracting Officer's decision requested by protesters in accordance with FAR 33.103(d)(4) and provide the protester with the HCA's decision on the appeal.

(f)(1) A determination by the Contracting Officer to award a contract pending resolution of a protest as authorized by FAR 33.103 shall be approved by the HCA in consultation with the Office of General Counsel.

(f)(3) A determination by the Contracting Officer to not suspend performance of a contract pending resolution of a protest as authorized by FAR 33.103 shall be approved by the HCA in

consultation with the Office of General Counsel.

[64 FR 46097, Aug. 23, 1999]

2433.104 Protests to GAO.

(a)(1) *General.* When advised by GAO of the receipt of a protest, the Office of General Counsel shall immediately inform the contracting activity. The Contracting Officer shall notify the Office of General Counsel upon receipt of the copy of the protest from the protestor.

(2) Upon receipt by the Department of a written request for a formal report relating to a protest, the Office of General Counsel, with appropriate assistance from the Contracting Officer, shall prepare and file the report in accordance with GAO requirements at 4 CFR part 21.

(c) *Protests after award.* Protests received after award shall be treated in the same manner as those filed with GAO before award in accordance with paragraphs (a)(1) and (a)(2) of this section.

(d) *Findings and notice.* When the Contracting Officer makes a determination to award a contract notwithstanding a protest as authorized by FAR 33.104(b)(1)(i-ii), or to continue contractor performance as authorized by FAR 33.104(c)(2), that determination of the intent to make an award or to continue contract performance shall be approved by the HCA after consultation with the Office of General Counsel.

(g) *Notice to GAO.* If the HCA proposes not to comply with a GAO recommendation concerning the resolution of a protest of a procurement award, prior to reporting to the Comptroller General concerning that decision, the HCA shall obtain the concurrence of the Office of General Counsel and the Senior Procurement Executive.

[50 FR 46578, Nov. 8, 1985, as amended at 51 FR 40333, Nov. 6, 1986; 57 FR 59790, Dec. 15, 1992]

2433.106 Solicitation provision.

The Contracting Officer shall insert the provision at 2452.233-70, Review of Contracting Officer Protest Decisions,

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in all solicitations for contracts expected to exceed the simplified acquisition threshold.

[64 FR 46097, Aug. 23, 1999]

**PART 2434—MAJOR SYSTEM
ACQUISITIONS**

AUTHORITY: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

2434.003 Responsibilities.

(a) The Senior Procurement Executive is responsible for establishing written procedures for implementation of A-109. Such procedures have been set out in internal Departmental directives.

[53 FR 46537, Nov. 17, 1988]